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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

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UNITED STATES OF AMERICA

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*versus*

CASE NO. 1:12-CR-119(4)

VICKI STARK-FITTS

**MEMORANDUM AND ORDER**

Pending before the court is Defendant Vicki Stark-Fitts's Motion for Out of Time Appeal (#514), wherein she requests additional time to appeal her conviction and sentence. On August 22, 2013, Stark-Fitts pleaded guilty to Count One of the Information which charged her with a violation of 18 U.S.C. § 1962(c). She was sentenced on March 5, 2014, to 378 months' imprisonment followed by 5 years of supervised release. The court's judgment was entered on March 6, 2014.

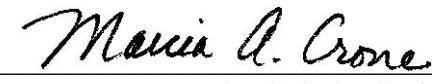
As a result, the 14-day period for filing a notice of appeal expired on March 20, 2014. *See* FED. R. APP. P. 4(b)(1)(A)(i) (requiring that a defendant in a criminal case file a notice of appeal within 14 days after the entry of the judgment being appealed); *United States v. Leijano-Cruz*, 473 F.3d 571, 572 (5th Cir. 2006). Additionally, the 30-day period for extending the time to file a notice of appeal under Rule 4(b)(4) expired on April 21, 2014. *See* FED. R. APP. P. 4(b)(4) (stating that “[u]pon a finding of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)’’); *Leijano-Cruz*, 473 F.3d at 572.

Stark-Fitts deposited her motion in the postal box provided for inmates on June 10, 2014, 96 days after judgment was entered in her case. Assuming *arguendo* that excusable neglect or

good cause exists for Stark-Fitts's failure to appeal within 14 days, the court is unable to grant her request, as her motion was filed more than a month past the deadline imposed by Rule 4(b)(4).

*See* FED. R. APP. P. 4(b)(4); *United States v. Willis*, 431 F. App'x 364, 365 (5th Cir. 2011) (affirming district court's denial of motion to extend time when defendant's motion was filed outside the 30-day window); *United States v. Cantwell*, 470 F.3d 1087, 1088 (5th Cir. 2006); *see also* *United States v. Cabrera-Hernandez*, No. 13-40078, 2014 WL 969804, at \*1 (5th Cir. Mar. 13, 2014) (upholding the district court's denial of a motion to extend appeal time where the defendant's motion "was filed beyond the 30-day time limit for extending the appeal period under FED. R. APP. P. 4(b)(4)"). Accordingly, Stark-Fitts's motion is DENIED.

SIGNED at Sherman, Texas, this 17th day of June, 2014.

  
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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE